

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SPACE AGE ALARMS, INC.,

Plaintiff,

– against –

**THE BOARD OF EDUCATION OF THE WHITE
PLAINS CITY SCHOOL DISTRICT, MICHAEL J.
LYNCH AND ALARM SPECIALISTS, INC.**

Defendants.

Case No.:

07-CV-7606 (CLB)(MDF)

**NOTICE OF MOTION
TO DISMISS**

PLEASE TAKE NOTICE, that upon the annexed affirmation of Michael G. McAlvin, dated October 25, 2007, the affidavit of Fred Seiler, sworn to October 25, 2007, the memorandum of law, the exhibits annexed thereto, and upon all the pleadings and proceedings herein, the Defendants, the Board of Education of the White Plains City School District and Michael J. Lynch, will move this Court on the 14th day of December, 2007 at 10:00 a.m., at the chambers of the Honorable Charles L. Brieant, U.S. District Court Judge, United States District Court, Southern District of New York, 300 Quarropas Street, White Plains, NY 10601-4150, or as soon thereafter as counsel can be heard, for an Order dismissing the causes of action against the Defendants, the Board of Education of the White Plains City School District and Michael J. Lynch, pursuant to Federal Rule 12(b)(1) and (6) upon the grounds that: (1) Plaintiff has failed to comply with the Notice of Claim requirements of Section 3218 of the New York State Education Law; (2) Plaintiff failed to state a claim upon which relief can be granted; and

(3) in the event the federal claims are dismissed and any state law claims remain, he Court should decline to exercise jurisdiction of those state law claims.

PLEASE TAKE FURTHER NOTICE that pursuant to Local Rule 6.1(b), any opposing affidavits and answering memoranda shall be served within ten business days after service of the moving papers; and reply affidavits and memoranda of law shall be served within five business days after service of the answering papers.

Dated: Hauppauge, New York
October 25, 2007

BY: 
Michael G. McAlvin (MM-6074)
INGERMAN SMITH, LLP
Attorneys for Defendant
WHITE PLAINS CITY
SCHOOL DISTRICT and
MICHAEL LYNCH
150 Motor Parkway, Suite 400
Hauppauge, New York 11788
(631) 261-8834

To: Leroy Wilson, Jr., Esq.
Wilson Jacobson, P.C.
Attorneys for Plaintiff
SPACE AGE ALARMS, INC.
The Inns of Court Building
99 Court Street, Suite 2
White Plains, New York 10601
(914) 997-0825
Fax: (914) 994-0830

Hugh G. Jasne, Esq.
Jasne & Florio, L.L.P.
Attorneys for Defendant
ALARM SPECIALISTS, INC.
525 North Broadway
White Plains, New York 10603
(914) 997-1212
Fax: (914) 682-8692